



[Billing Code 7709-02-P]

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Notices under Section 4062(e) of ERISA

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intent to request OMB approval of information collection.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) approve under the Paperwork Reduction Act a collection of information that is necessary to fulfill various reporting obligations following a cessation of operations at a facility. This notice informs the public of PBGC's intent and solicits public comment on the collection of information.

DATES: Comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]** to be assured of consideration.

ADDRESSES: Comments may be submitted by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Email: paperwork.comments@pbgc.gov.

- Mail or Hand Delivery: Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW, Washington, DC 20005-4026.

All submissions received must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and refer to the Notices Under Section 4062(e) of ERISA. All comments received will be posted without change to PBGC's website, <http://www.pbgc.gov>, including any personal information provided.

Copies of the collection of information may be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW, Washington, DC 20005-4026, or calling 202-326-4040 during normal business hours. TTY users may call the Federal Relay Service toll-free at 800-877-8339 and ask to be connected to 202-326-4040.

FOR FURTHER INFORMATION CONTACT: Melissa Rifkin (*rifkin.melissa@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington DC 20005-4026; 202-326-4400, extension 6563; or Erika E. Barnes (*barnes.erika@pbgc.gov*), Assistant General Counsel, Bankruptcy, Transactions, and Terminations Department, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington DC 20005-4026; 202-326-4400, extension 3460. (TTY users may call the Federal Relay Service toll-free at 800-877-8339 and ask to be connected to 202-326-4400, extension 6563 or extension 3460.)

SUPPLEMENTARY INFORMATION: Section 4062(e) of the Employee Retirement Income Security Act of 1974 (ERISA) imposes reporting obligations in the event of a “substantial cessation of operations.” A substantial cessation of operations occurs when a permanent cessation at a facility causes a separation from employment of more than 15 percent of all “eligible employees.” “Eligible employees” are employees eligible to participate in any of the facility’s employer’s employee pension benefit plans. Following a substantial cessation of operations, the facility’s employer is treated, with respect to its single employer pension plans covered by title IV of ERISA that are covering participants at the facility, as if the employer were a withdrawing substantial employer under a multiple-employer plan. Under section

4063(a) of ERISA, the Pension Benefit Guaranty Corporation (PBGC) must receive notice of the substantial cessation of operations and a request to determine the employer's resulting liability.

To fulfill such resulting liability, the employer may elect, under section 4062(e)(4)(A), to make additional contributions annually for seven years to plans covering participants at the facility where the substantial cessation of operations took place. Under sections 4062(e)(4)(E)(i)(I) (II), (III), (IV), and (V) respectively, an employer that is making the election for annual additional contributions must give notice to PBGC of: (1) its decision to make the election, (2) its payment of an annual contribution, (3) its failure to pay an annual contribution, (4) its receipt of a funding waiver from the Internal Revenue Service, and (5) the ending of its obligation to make additional annual contributions.

PBGC is proposing a new form series, consisting of Form 4062(e)-01, Form 4062(e)-02, Form 4062(e)-03, and Form 4062(e)-04, that would be used to fulfill these reporting obligations. An employer or a plan administrator would file Form 4062(e)-01 to notify PBGC of the occurrence of a substantial cessation of operations and request a determination of the employer's liability. An employer would file Form 4062(e)-02 to notify PBGC that it made the elections to pay annual additional contributions to a plan. An employer would file Form 4062(e)-03 to notify PBGC that it paid an annual additional contribution, received a funding waiver from the Internal Revenue Service, or is no longer obligated to pay additional annual contributions. Finally, an employer would file Form 4062(e)-04 to notify PBGC that it failed to pay an additional annual contribution to the plan.

PBGC needs the requested information in the forms and notification (1) to determine an employer's liability to a plan following a substantial cessation of operations and (2) to ensure

that an employer that made the election of additional annual contributions is fulfilling its payment obligations.

PBGC estimates that 70 forms/notifications (10 Forms 4062(e)-01, 10 Forms 4062(e)-02, 49 Forms 4062(e)-03, and one Form 4062(e)-04) would be submitted each year. PBGC estimates that these forms would be completed by a combination of plan office staff and outside professionals (attorneys and actuaries). PBGC estimates a total annual hour burden of 315 hours (based on plan office time). The estimated dollar equivalent of this hour burden, based on an assumed hourly rate of \$75 for administrative, clerical, and supervisory time is \$23,625. PBGC estimates a total annual cost burden of \$92,750 (based on 265 professional hours assuming an average hourly rate of \$350).

PBGC intends to request that OMB approve PBGC's use of this form for three years. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PBGC is soliciting public comments to—

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodologies and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*

permitting electronic submission of responses.

Issued in Washington, DC, by:

Hilary Duke,

Assistant General Counsel for Regulatory Affairs,

Pension Benefit Guaranty Corporation.

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